

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOHN MORALEZ,

Plaintiff,

Case No. 1:20-cv-131

v.

HON. JANET T. NEFF

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION, et al.,

Defendants.

OPINION AND ORDER

On February 12, 2020, Plaintiff, proceeding pro se, initiated this action against the Equal Employment Opportunity Commission (EEOC) and other government officials. The matter was referred to the Magistrate Judge, who issued a Report and Recommendation (R&R), recommending that the action be dismissed upon screening pursuant to 28 U.S.C. § 1915(e)(2)(B). The matter is presently before the Court on Plaintiff's objections to the Report and Recommendation. Additionally, Plaintiff has filed various motions. In accordance with 28 U.S.C. § 636(b)(1) and FED. R. Civ. P. 72(b)(3), the Court has performed de novo consideration of those portions of the Report and Recommendation to which objections have been made. The Court denies the objections, denies the motions, and issues this Opinion and Order.

I. Objections

Plaintiff raises eight objections to the Magistrate Judge's recommendation to dismiss Plaintiff's complaint (Pl. Obj., ECF No. 15). The objections variously argue alleged "gross illegal procedural errors" in the Magistrate Judge's issuance of the Report and Recommendation or allege

an abuse of discretion by the Magistrate Judge, citing analysis in previous lawsuits before this Court on the same matter: *John Moralez v. Equal Employment Opportunity Commission, et al.*, Case No. 1:18-cv-634 (W.D. Mich.), and *John Moralez v. Equal Employment Opportunity Commission, et al.*, Case No. 1:19-cv-957 (W.D. Mich.). Plaintiff seeks sanctions against the Magistrate Judge. Plaintiff attaches a copy of the docket for his related case, No. 1:18-cv-634, contending that the Court must approve a “Federal Marshall [sic] to ‘serve’ the pro se Plaintiff’s February 12, 2020 filed ‘summons + complaint’ to the Defendant EEOC and Ms. Carolyn Almassian as legally mandated by the U.S. Sixth Circuit Court of Appeals” (*id.* at PageID.202). Contrary to Plaintiff’s assertion, the Magistrate Judge properly determined upon screening, in advance of any required service, that Plaintiff’s complaint “fails to state a claim upon which relief may be granted and is frivolous” (R&R, ECF No. 14 at PageID.188). Plaintiff presents no coherent, valid challenge to the Magistrate Judge’s analysis or conclusion. Therefore, Plaintiff’s objections are denied.

II. Motions

Plaintiff has filed a Motion for Summary Judgment (ECF No. 6), a Motion to serve the complaint (ECF No. 7), and a Motion for judgment on the pleadings (ECF No. 10). Contrary to Plaintiff’s arguments, the Magistrate Judge is not required to issue report and recommendations on Plaintiff’s motions before reviewing his complaint under 28 U.S.C. § 1915(e)(2). In light of the Magistrate Judge’s recommendation to dismiss Plaintiff’s complaint, and the denial of Plaintiff’s objections, the motions are denied as moot.

III. Sanctions

After a thorough and well-stated background of Plaintiff’s continued litigation, including three cases before the undersigned on the same matter, the Magistrate Judge recommends that

sanctions be imposed against Plaintiff. Plaintiff is a frequent pro se litigator and restricted filer. However, Plaintiff's "restricted filer" status has failed to deter his repeated, frivolous or excessive filings. This Court agrees that further sanctions are warranted and necessary to avoid further taxing this Court's limited judicial resources. Therefore, for the reasons set forth in the Report and Recommendation, the Court will order that Plaintiff is barred from filing any future actions in this Court based on the facts, transactions, or rulings set forth in Case No. 1:18-cv-634.

Accordingly, this Court denies the objections and adopts the Magistrate Judge's Report and Recommendation as the Opinion of this Court. Because this Opinion and Order resolves all pending claims in this case, a Judgment will also be entered. *See FED. R. CIV. P. 58.* Further, because this action was filed *in forma pauperis*, this Court certifies pursuant to 28 U.S.C. § 1915(a)(3), as recommended by the Magistrate Judge, that an appeal of this decision would not be taken in good faith. *See McGore v. Wrigglesworth*, 114 F.3d 601, 610 (6th Cir. 1997), overruled on other grounds by *Jones v. Bock*, 549 U.S. 199, 206, 211-12 (2007).

Therefore:

IT IS HEREBY ORDERED that the Objections (ECF No. 15) are DENIED and the Report and Recommendation of the Magistrate Judge (ECF No. 14) is APPROVED and ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that Plaintiff's Motion for Summary Judgment (ECF No. 6), Motion to serve the complaint (ECF No. 7), and Motion for judgment on the pleadings (ECF No. 10) are DENIED as moot.

IT IS FURTHER ORDERED that this Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of this decision would not be taken in good faith.

IT IS FURTHER ORDERED that Plaintiff is barred from filing any future actions in this Court based on the facts, transactions, or rulings set forth in Case No. 1:18-cv-634.

Dated: September 30, 2020

/s/ Janet T. Neff

JANET T. NEFF
United States District Judge